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ABSTRACT

Intended to make the First Amendment relevant to young people by addressing issues that speak directly to their lives, this guide assists teachers in using "Talk about Freedom," a series of eight educational print advertisements (ads) for teenagers, in the classroom. The eight print ads presented in the guide address: (1) censorship of school newspapers; (2) what students wear as a form of expression; (3) school prayer; (4) what books students should be allowed to read; (5) racist, sexist, or hate-filled speech; (6) incendiary song lyrics; (7) parental warning labels for music albums; and (8) flag burning. The guide presents copies of each ad, suitable for student handouts or classroom display; ready-to-use exercises; discussion guides; and suggestions for interdisciplinary activities. The guide also includes a description of the First Amendment and key U.S. Supreme Court rulings related to the rights of students in public schools. A list of nine organizations that regularly address First Amendment issues and a description of other activities are attached. (RS)

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ED 385 857

Talking About Freedom

a teacher's guide to the First Amendment

Featuring:

- **Classroom handouts**
- **Teaching ideas for the classroom**
- **Discussion questions**
- **Suggested activities**

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Dear Teacher:

One of the core issues facing educators today is how to equip a generation of Americans with the skills needed to coexist peacefully in an ever-more diverse society.

The First Amendment to the U.S. Constitution provides us with a time-tested set of principles and values that have allowed a wide range of beliefs and opinions to flourish in our democracy. This effective, but little understood, tool has helped ensure that the diversity of our nation is a strength, not a weakness.

That is why we created the "Talking About Freedom" campaign, a series of eight educational print ads for teens. Dealing with issues ranging from dress codes to censorship of school newspapers and from school prayer to parental warning labels on records and CDs, the ads examine the complex interplay of competing interests that the First Amendment helps us balance. They make the First Amendment relevant to young people by addressing issues that speak directly to their lives.

We hope this teaching guide will help you use the "Talking About Freedom" campaign in the classroom. It provides:

- copies of each ad, suitable for student handouts or classroom display;
- ready-to-use exercises;
- discussion guides; and
- suggestions for interdisciplinary activities.

Consider using these materials to complement a unit on the Constitution and the Bill of Rights or use them monthly as a prompt for year-round discussion of the First Amendment at work. We encourage you to use your local newspaper or news broadcast in ways suggested by this curriculum to enhance your students' learning. Also, suggest that students call our toll-free number (800-815-5335) for a free guide to First Amendment rights.

Most importantly, we encourage you to use these materials to get students talking, debating and weighing the issues. Because talking about the First Amendment means talking about freedom.

Sincerely,

Charles L. Overby
President and Chief Executive Officer

THE FREEDOM FORUM WORLD CENTER
1101 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22209

TEL: 703/528-0800
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This teacher's guide was developed by The Freedom Forum of Arlington, Va., a nonpartisan, international foundation dedicated to free press, free speech and free spirit for all people. The foundation, which does not solicit or accept contributions, pursues its priorities through programs including conferences, educational activities, publishing, broadcasting, on-line services, partnerships, training and research. Teaching exercises contained in the guide were compiled by Anne Nemer of Luther Jackson Middle School in Falls Church, Va. For more information contact Beth Tuttle at The Freedom Forum, 703-284-2806.

Should teachers or principals be allowed to censor school newspapers?

Students and faculty may not always see eye to eye, but when a public high school principal deleted two stories from a newspaper written in an advanced journalism class, it became a case for the U.S. Supreme Court — *Hazelwood v. Kuhlmeier.*

The articles in question concerned teen pregnancy and the impact of divorce on students. The principal believed they might violate privacy rights and be disruptive to the educational process. The student editors sued the principal and the school district, arguing that their First Amendment rights under the U.S. Constitution had been violated.

The Supreme Court ruled in favor of the school officials, giving public school educators editorial control over the content of school-sponsored publications if they can show their actions are reasonably related to educational concerns.

How do you read it? Does freedom of the press extend to the student press? Should the government, or anybody else, be permitted to impose restrictions?

The debate is never ending. And is surely worth having. Because talking about the First Amendment means talking about freedom.

For a free guide to your First Amendment rights call: 1-800-815-5335

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Should teachers or principals be allowed to censor school newspapers?

In Hazelwood v. Kuhlmeier (1988), the U.S. Supreme Court ruled that public school administrators who find a reasonable educational justification may legally censor school-sponsored student publications. This lesson can help students understand how rights are limited in certain situations and often must be balanced by responsibilities.

Getting Started with Case Studies*

- Divide the class into groups and present each with one of the following scenarios:

  SCENARIO ONE: Two letters to the editor have been submitted to the newspaper. One claims that the Ku Klux Klan is "no longer a violent organization" and that interracial dating is bad for the school's reputation. The other supports keeping the white race "pure" and refers readers to a white supremacy group. Do you print the letters?

  SCENARIO TWO: A group of students has begun circulating an underground newspaper that includes a parody of an advice column which offers advice like "Go ahead, sleep with him" and "Who cares?" They also have used the school's copy machine to print the publication. Do you allow the paper to be distributed on campus? Do you take disciplinary action? If so, what action and on what grounds?

- Acting as administrators, each group must decide what to print. Remind students that they are balancing between community/parental pressure, student pressure, and their obligations to freedom of speech outlined under the First Amendment. After each group presents its solution, discuss what the real administrators decided:

  SCENARIO ONE: The superintendent of Pekin High School in Illinois ordered the confiscation of the newspaper on the grounds that the letters were racist. The newspaper staff opposed the decision as a violation of their First Amendment rights.

  SCENARIO TWO: Staffers from the underground publication received from 3 to 5 days suspension. They decided to continue their publication but publish and distribute it off school grounds.

Discussion Questions

- Should freedom of the press be absolute, even if the opinions expressed are racist, sexist, anti-Semitic, or otherwise hurtful and demeaning?

- Should morality be considered? Is there a place in the press for the lewd, crude, or otherwise disrespectful? If morality is an issue, whose morality? Should freedom of the press be connected to beliefs about right and wrong?

- Should parents, teachers, or administrators be allowed to decide what is appropriate for students to read, write and publish? Are there issues that are too sensitive or mature for a student newspaper? If so, what are they?

*From The Student Press Law Center Report, Spring 1994, Vol. V, No. 2. For a copy of the publication or more information on these cases, contact the Student Press Law Center, 703/807-1904.

Should your T-shirt have freedom of speech?

Thirty years ago, the question wouldn't have come up. T-shirts didn't talk in those days.

Today, T-shirts, hats, jackets and other clothing shout a lot of messages. Some are political. Some are profane. Some are provocative. And a lot of people think these messages have no place in schools.

In 1969, the Supreme Court ruled that two students who wore black armbands to school to protest the Vietnam War could not be suspended from classes. The court decided that the right to freedom of expression "does not end at the schoolhouse door." It said that wearing armbands was a form of "symbolic speech" that is protected by the First Amendment to the U.S. Constitution.

Is what you wear a form of expression? Should there be limits on what you can wear at school? What if it might be offensive to others or seems to encourage dangerous or illegal behavior?

The debate never ends. But it's sure worth having. Because talking about the First Amendment means talking about freedom.

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Should your T-shirt have freedom of speech?

Dress codes hit close to home. High school students are in the process of defining who they are and many rely on outward appearance to do so. Students know that clothes speak, but does the First Amendment protect this form of speech?

Getting Started

- Have students investigate the dress code that exists in your school by using a student handbook or interviewing administrators. Are there rules and regulations governing what students can wear to school? If so, what are they? How strictly are they enforced? What are the consequences for violating the dress code? Students may have to interview teachers for the latter questions.

- Post the findings on newsprint, overhead or chalkboard so that they are visible to the class.

Discussion Questions

- Conduct an informal poll of class members and tally the results on the board.
  With regard to a dress code that banned T-shirts carrying slogans promoting the use of drugs, alcohol and tobacco, would you:
  - support such a dress code?
  - oppose such a dress code?
  - have no opinion?

- Brainstorm a list of pros and cons to such a dress code and list them on newsprint.

- Distribute copies of the ad, **"Should your T-shirt have freedom of speech?"** or create a transparency and place it on the overhead. As a class, read the text at the bottom of the ad (especially focusing on the 1969 Supreme Court ruling) and discuss the questions that follow:
  - Is what you wear a form of expression?
  - Should there be limits on what you can wear at school?
  - What if what you wear might be offensive to others or might seem to encourage dangerous or illegal behavior? What about students who wear gang "colors" to school?

  Note: If you have not introduced the First Amendment, you can distribute a copy of it with the ad.

Project Ideas

- Letters to the principal and school newspaper stating positions on dress codes.
- Role play: "You are the principal and it is your responsibility to draft a dress code. What would it be? How would you justify it to parents, students, the First Amendment?" Present dress code to class and/or simulate a school board meeting.
- Observation and reporting on ways students use clothes to express themselves; presentation as collage, play, survey or paper.

Should prayer be an official part of the big game?

What could be more innocent than an invocation that a public high school football team win the trophy?

Well, it depends. Who sponsors the prayer? Who decides who prays? Who feels included and who feels left out?

When the authors of the First Amendment to the U.S. Constitution wrote, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...," they sparked a debate that continues today.

Does prayer in public schools threaten religious liberty? Or does it simply make room for individual expression of religious beliefs in the classroom?

Talk it over. Weigh all sides. Because talking about the First Amendment means talking about freedom.

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Should prayer be an official part of the big game?

Whether we're talking about the homecoming game, a graduation ceremony or a moment of silence to start the day, the role of prayer in public schools still sparks controversy about the free exercise of religion and the separation of church and state. What exactly is the role of religion in the public schools?

Getting Started

Consider the following scenarios:

- A 10-year-old boy brings a Bible to school to read during free time and independent reading.
- Two Christian boys refuse to read a required text because they believe it goes against their moral and religious beliefs.
- The student body of a public high school votes unanimously in favor of including prayer in the graduation ceremony.
- For 20 years, a Christmas tree has been placed in the children's room of a public library.
- A student whose religious beliefs forbid paying homage to symbols refuses to recite the Pledge of Allegiance on religious grounds.

Which of the above, if any, do you think would be supported by the First Amendment's guarantee of freedom of religion? Which, if any, present a conflict?

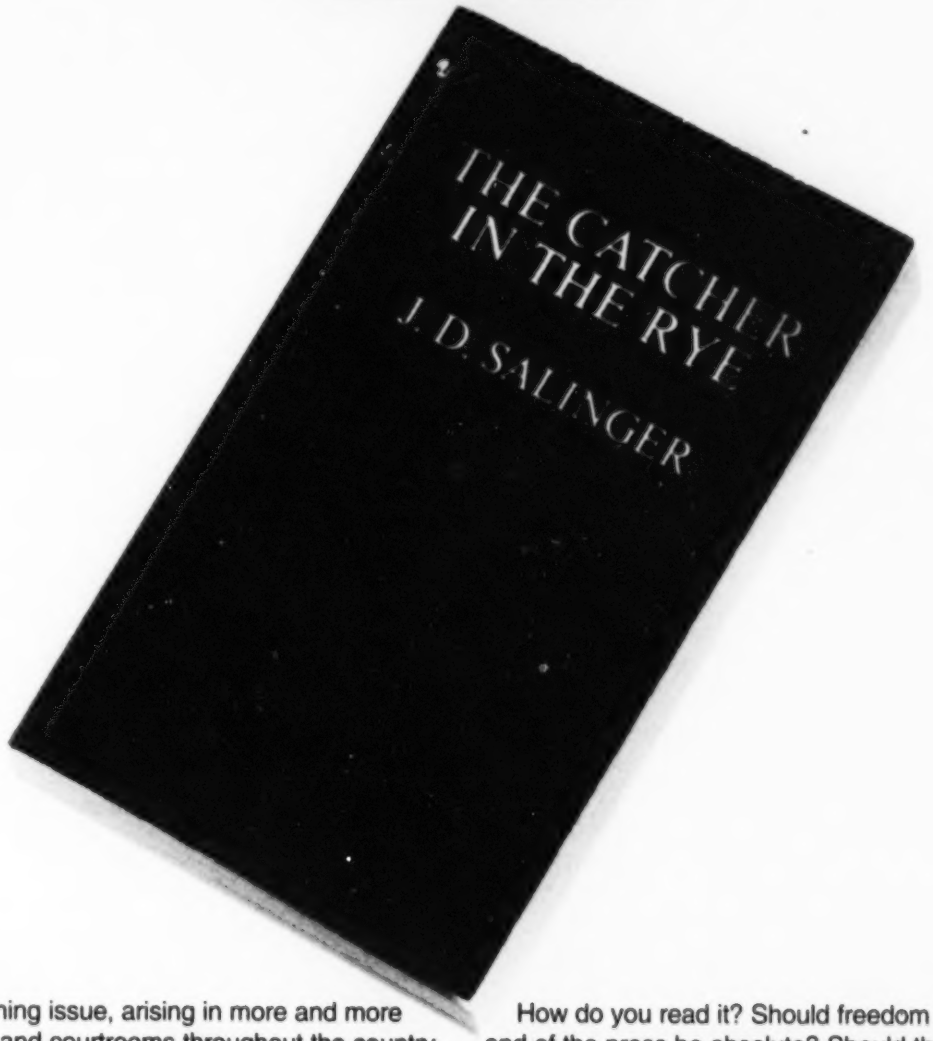
Discussion Questions

- Should a public school library have copies of religious writings such as the Koran or Bible? Should individual classrooms have copies of religious materials?
- What is the difference between education about religion and religious teaching? Is there a role for education about religion in public schools?
- Should all religious symbols, including those associated with religious holidays, be removed from public places, and public schools in particular?
- Should students be able to decide whether to have prayer as part of a school event? If so, how many must agree in order for it to happen? Majority rule? Unanimous support? What options should students who object have?

Project Ideas

- Investigate your school's practices with regard to freedom of religion, and analyze them in the context of the First Amendment. Is your school public, private or parochial? Does this make a difference? What are the competing interests in your school and your community? How do you accommodate those interests?
- Develop a policy for the classroom and the school that would promote respect for differences in religious belief and practice while enforcing student rights to freedom of religion under the First Amendment. Consider school events, holidays and curriculum issues.

Should you be allowed to read this book?



It's a burning issue, arising in more and more classrooms and courtrooms throughout the country. While some are attacking books like *The Catcher in the Rye*, *Huckleberry Finn*, and *Of Mice and Men* as not being fit to read, others argue that to forbid them is an act of censorship and a violation of First Amendment rights under the U.S. Constitution.

How do you read it? Should freedom of speech and of the press be absolute? Should the government, or anybody else, be allowed to stop you from reading what you choose?

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Should you be allowed to read this book?

When it comes to what students may read in public school classrooms, pressure has come from both the left and the right. Consider "Huckleberry Finn." Some consider Huck immoral because he doesn't go to church or school and uses profanity. Others, however, don't want the book in our schools because of the prevalence of the word "nigger," which they say is hurtful to African-American students. Where do student rights fit in? Should they be allowed the same freedom as adults to choose what they read?

Getting Started

- Ask students if they think certain ideas or themes should be off-limits in the classroom. Are there topics that are too controversial, difficult, mature or otherwise unacceptable? Are there topics they would be uncomfortable talking about in the context of the classroom? If so, what are they?

- Assuming that there will be different ideas about appropriateness, ask students how they would decide what is acceptable. Whose definition of acceptable/unacceptable do we use? Do we select works that everyone can agree on? Is a majority enough? How can the concerns of those with different views be accommodated?

Role Play

- Distribute a copy of the ad, **"Should you be allowed to read this book?"** Assign students to various roles, as:

  students
  teachers
  parents
  community members

  Considering the interests, obligations, responsibilities and priorities of each group, have students discuss and define their philosophy on selecting books for classroom work.

- It may help to offer a particular title for discussion. One that is sure to spark a heated and provocative debate is Studs Terkel's "Working," a collection of personal narratives from people working all sorts of jobs — doctors, musicians, garbage men, housewives, accountants and prostitutes, among others. Advocates believe that the book tells it the way it is and prepares students for life after high school. The opposition sees both its content and language as vulgar and offensive and wants to keep the book away from the classroom.

- Ask students to formulate a position for the members of their role group. Would they support the book's inclusion in the curriculum? Oppose it? Why? After discussion, examine the competing forces that play out in book selection. Who ultimately decides what students will read? Who should decide?

Should this man be allowed to speak his mind at your school?

MICHAEL L. ABRAMSON/TIME MAGAZINE

First consider this: Louis Farrakhan preaches what some call anti-Semitism and a form of black supremacy.

Now consider this: Supreme Court Justice Oliver Wendell Holmes wrote that the First Amendment protects those ideas "we loathe and believe to be fraught with death."

Across the nation, schools are adopting policies to squelch what some call racist, sexist and hate-filled speech.

Some view these codes as necessary to end discrimination against historically disadvantaged groups. Others see them as "politically-correct" violations of the First Amendment's free speech guarantee.

Where do you stand? What should happen when civil liberties and civil rights collide? Should freedom of speech be absolute?

Think about it. Debate it. Because talking about the First Amendment means talking about freedom.

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Should this man be allowed to speak his mind at your school?

The rhetoric of Louis Farrakhan and other spokesmen for the Nation of Islam has had many questioning just how far the First Amendment's protection of speech should go. Does defending freedom of speech include defending the language of intolerance, discrimination, or hate? Should we extend freedom of assembly to groups like the Ku Klux Klan or Nazi Party? Are there some voices that we would rather not hear? If so, is it right to silence them? More and more schools are adopting speech codes to protect the civil rights of historically disadvantaged groups by banning discriminatory and hateful speech. But what happens when civil liberties clash with civil rights?

Discussion Questions

- Consider the following hypothetical situation: A group of students has invited a member of the KKK to speak at your school. Attendance is not mandatory and the speech has been organized and funded by the student organization, not the school. What would you do?
  - Try to prevent the event from taking place?
  - Protest during the speech so that the speaker cannot be heard?
  - Decide not to attend and try to convince others to do the same?
  - Invite a speaker from another organization with a different point of view?
  - Other response _____

  What are the advantages/disadvantages of each response? Which response do you think best shows the First Amendment in action? If the goal of freedom of speech is to hear all sides in order to get closer to the truth, which strategy gets you closer to the truth?

- Bob Greenlee of the *New Haven Register* wrote, "...when the decision to deny freedom of speech and the espousal of unpopular views is granted, then the freedoms of all of us are in jeopardy." Do you agree? Disagree? Are there any cases wherein you think freedom of speech should be denied?

- Observe what goes on in your own classes. What happens when a student offers an unpopular opinion? Although there may be no written rule preventing students from speaking their minds, are there forces at work that keep them from saying what they think? How effective are these in encouraging students to censor themselves?

- Supreme Court Justice Oliver Wendell Holmes wrote that the First Amendment protects those ideas "we loathe and believe to be fraught with death." Where do you stand? What reason is there to allow even those ideas we loathe?

Should Snoop Doggy Dogg be under lock and key?

First, Snoop was indicted for murder. Then, his incendiary album, "Doggystyle," hit the charts.

Should Snoop's inflammatory lyrics still be heard? Some think he encourages violence and that this is reason enough to silence him.

Others believe the First Amendment to the U.S. Constitution gives him the right to perform his music and gives each of us the right to listen if we choose.

How do you hear it? Should freedom of speech be absolute? Or should the government, or anybody else, be permitted to impose restrictions?

Talk it over. Weigh all sides. Because talking about the First Amendment means talking about freedom.

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Should Snoop Doggy Dogg be under lock and key?

Nowhere has the generation gap been more deeply felt than in the opinions about "gangsta" rap and its language of violence, sex, drugs and disrespect for women. Some young people eat it up, sending sales soaring and modeling the way they wear their clothes after Snoop and other rappers. Many parents, however, find the messages reprehensible and believe "gangsta" rap should be taken off the air and off the shelves. Even fervent defenders of the First Amendment have to swallow hard when they think about Snoop's "Doggystyle" and its popularity. This issue is loaded.

Getting Started

- Ask students to think about different kinds of media. Pose the question: What is the influence of media? Do they dictate trends in thoughts or behaviors? Or do they merely reflect existing trends?

- Taking it a step further, ask students to assume that media do in fact influence behavior, that there is a direct causal relationship between thoughts and ideas in popular media and the actions of consumers. Consider this scenario: A young boy sets his bed on fire after watching a cartoon character randomly set fires on a prime-time TV show. Given our assumption, the boy has set the fire because he saw it done on TV. Is this contagious, destructive, even deadly media influence enough reason to pull the show off the air?

Discussion Questions

- Introduce the ad, **"Should Snoop Doggy Dogg be under lock and key?"** In the context of the ad, continue the earlier discussion:
  - Is the content of "gangsta" rap — drugs, violence, sex and gangs — enough reason to take it off the airwaves and out of stores?
  - Is it important to prove that images presented in music or on TV have a *direct effect* on behavior? Is it enough to prove that images *influence* behavior?
  - Imagine that we could prove a direct connection between violent behavior and "gangsta" rap: Would there be First Amendment implications if a local government sought to ban this music? What if Congress passed a law regulating the content of recorded music?

- Consider alternatives to government regulation of "gangsta" rap and other controversial forms of speech. How can people who find "gangsta" rap offensive or dangerous let their views be known?

- Boycotts have been used to exert economic pressure and are one of the most effective forms of non-governmental control. When Cesar Chavez asked Americans to boycott grape growers who were not providing migrant workers fair pay and work conditions, the grapes disappeared from supermarket shelves and growers were forced to reform. More recently, however, boycotts have been used in an attempt to control ideas and expression. For example, the National Organization for Women and other organizations boycotted a Rush Limbaugh show advertiser — Florida orange juice — because they opposed Limbaugh's anti-feminist beliefs. Is this an example of freedom of speech at work? Should economic pressure be used to fight ideas?

Should Guns 'n Roses carry a warning label?

It's been a long-playing and often bitter battle. Some people contend that certain rock and roll albums as well as live concerts are unsuitable for young people and require parental warnings. Others oppose labeling, considering it an attempt to restrict the range of artistic expression. They claim it is censorship.

How do you hear it? Should freedom of expression be absolute? Or should the government, or anybody else, be allowed to impose restrictions?

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Should Guns 'n Roses carry a warning label?

Speech comes in various forms, but the voices many teenagers are listening to today are on CDs and tapes. As lyrics become more provocative, violent, even incendiary, the debate over what is acceptable for young people to listen to continues. And it's a debate in which students should participate. Parental warning labels are a good place to start the discussion, both in defining censorship and helping students recognize how the First Amendment is relevant to them.

Getting Started

- Begin by asking students, "What is censorship?" List all responses on the board, discuss differences between them, and arrive at a class definition of censorship, which should be visually displayed.
- Refer students to the First Amendment and ask if the First Amendment would support their definition of censorship.

Discussion Questions

- Distribute or display the ad, **"Should Guns 'n Roses carry a warning label?"** Ask students if warning labels constitute censorship (a) given the class definition; (b) given the First Amendment. Why? Why not?

- Remind students that the warning labels are not government imposed and do not legally prevent anyone from purchasing a CD or tape. Would it make a difference if Congress passed a law requiring warning labels? Does this affect the discussion?

- Brainstorm reasons for supporting/opposing warning labels. It may help to ask students to role play as parents and students for debate.

Project Ideas

Students can develop a survey to study student opinions on parental warning labels. Sample questions:

- Are you familiar with the First Amendment and its protection of freedom of speech? (Have a copy of the First Amendment on hand to use for those who are unfamiliar.)
- Do you think placing warning labels on CDs/tapes is a form of censorship?
- Has a warning label ever stopped you from buying a CD/tape?
- Have you ever bought a CD or tape just because it had a warning label?
- In your opinion, what are the reasons that a CD/tape ends up with a label?
- Do you think the labels are:
  - a good idea?
  - a bad idea?
  - no opinion?

Why? _____

Compile the results; write opinion and feature stories for the school newspaper; create graphics to show the results visually.

Should anyone be allowed to burn our flag?

In 1984, Gregory Lee Johnson was arrested for burning an American flag at a political demonstration in Dallas, Texas. He was convicted for violating a Texas statute prohibiting the desecration of venerated objects. The U.S. Supreme Court overturned the conviction on the grounds that Johnson burned the flag as an act of symbolic speech and so was protected by the First Amendment to the Constitution.

How do you see it? Should freedom of speech be absolute? Or should the government, or anybody else, be allowed to impose restrictions?

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Should anyone be allowed to burn our flag?

When the U.S. Supreme Court ruled that flag burning was protected under the First Amendment as an act of symbolic speech, it sparked emotional responses around the country. There are some who want to overrule the high court and see an amendment added to the Constitution that would ban flag burning. This issue highlights not only the power of symbols but also shows how the courts and legislative bodies function separately, and how a Supreme Court decision is not necessarily the last word.

Getting Started

- Ask students to brainstorm a list of words they associate with the image of the American flag. Post this list on the board, overhead or newsprint. Note that the flag, like other symbols, takes on greater significance than its physical properties would suggest.

- Repeat this exercise for the image of a swastika.

- Through class discussion, create a list of ways one could interpret the burning of the American flag. What are the possible meanings of such an action? Likewise, what are the possible interpretations of burning a swastika? Do actions, in particular those involving the use of symbols, qualify as forms of speech, and therefore First Amendment protection?

Further Discussion

- First a little background: Referring to the ad, **"Should anyone be allowed to burn our flag?"** review the brief description of the U.S. Supreme Court's 1984 decision protecting flag burning as an act of symbolic speech. Review with students that the debate didn't stop with the court's decision; actually the decision sparked an emotionally charged movement to override the court's decision with legislative action.

- Issues worth discussing:
  - Other forms of symbolic speech.
  - The power of symbols (how they differ from oral or written speech).
  - The validity of protection of symbolic speech.
  - The protection of speech that is "un-American."
  - The possibility for legislative action in response to Supreme Court decisions.

- Consider and discuss the words of John Stuart Mill:
  "If all of mankind, minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind."

The First Amendment, Students and Public Schools

The following pages provide background information about the First Amendment and key U.S. Supreme Court rulings related to the rights of students in public schools.

Overview

The first ten amendments to the United States Constitution, called the Bill of Rights, were adopted to protect Americans from the power of the government to restrict certain individual liberties. The First Amendment protects the freedoms of religion, speech, press, assembly and petition.

The protections of the First Amendment are broad but not absolute. With regard to student rights, the courts have generally found that schools provide only a limited forum for the exercise of First Amendment freedoms. While certain rights exist, they are protected only so long as they do not interfere with the school's educational purpose.

It is important to note the difference in the applicability of the First Amendment in public schools versus private and parochial schools. As "state actors" — representatives of the government — public schools, their principals and teachers are bound to uphold the First Amendment. Private and parochial schools, however do not have the same obligation. Young people continue to enjoy the full protection of the First Amendment in open public forums.

Freedom of Religion

Two separate clauses of the First Amendment protect religious liberty: the Free Exercise Clause, and the Establishment Clause. The First Amendment guarantees the freedom to practice the religion of your choice or to practice no religion at all, free from government interference. The government is prohibited from endorsing or imposing on its citizens the beliefs of any particular religion.

Compulsory School Prayer and Religion

In the public school setting, the Supreme Court has struck down state-sponsored or state-organized prayer, even if the prayers are nondenominational *[Engle v. Vitale, 1962]* and participation is voluntary *[Murray v. Curtlett, 1963]*. Teachers and administrators therefore may not lead or participate in religious activities on campus. Even when a non-teacher such as a local clergyperson gives a prayer at a graduation ceremony, the Court has said the Constitution is violated because it gives the impression of the official endorsement of religion and places public and peer pressure on attending students to pray or to maintain a respectful silence *[Lee v. Wiseman, 1992]*.

The Supreme Court also has struck down the posting of the Ten Commandments in classrooms when the purpose of the posting was religious rather than educational [*Stone v. Graham*, 1980]. Similarly, an Alabama law mandating a moment of silence at the beginning of the school day, even when participation was not required, was invalidated because the Court determined that the primary purpose was to advance religion. The Court has expressed special concerns about government-endorsed religious activities in schools, even when voluntary, because government endorsement may be more likely to result in coerced religious beliefs [*Wallace v. Jaffree,* 1985].

However, most observers agree that students are free to pray alone or in groups so long as the activity is not disruptive and does not infringe on the rights of others. These activities must be truly voluntary and student-initiated. This is especially important where young students are involved, the

courts have said, because they may be unable to distinguish between government endorsement and mere government accommodation of religious practices.

Equal Access to School Facilities for Religious Groups

Student groups may meet on school property during non-instructional time for religious purposes so long as other student groups are allowed to gather and meet on school property. This right is guaranteed by the Equal Access Act of 1984. The act imposes some restrictions: The meetings must be student-initiated; they must not be school-sponsored; school staff may attend only in a non-participatory capacity; and non-school persons may not direct, conduct, control or regularly attend such meetings. In 1990, the Supreme Court upheld the act in a case involving the use of public school property for a meeting by a student Christian club [*Board of Education of the Westside Community Schools v. Mergens*].

Freedom of Speech

Freedom of speech protects the right to communicate and receive information, ideas and opinions, even if the messages are offensive or obnoxious. It protects the spoken word, speech combined with lawful action (picketing and demonstrations), and symbolic speech (burning the flag or wearing a protest button or armband).

Specifically, the framers of the Constitution were concerned about protecting classic political speech, which consists of any proposition or argument about how we should organize ourselves as a society — politically, economically or socially. But the protection of the First Amendment goes beyond core political speech to the arts, music and entertainment. Though this type of speech does not directly contribute to public debate, it affects the way we form social attitudes and values, which help steer the direction of our country. But because these forms of expression are less central to political debate, the Supreme Court has afforded them less protection than political speech.

The government does reserve the right to control some forms of speech: obscenity (anything that treats sex or nudity in an offensive or lewd manner and lacks literary, artistic, political, scientific or social value); fighting words (words so abusive or threatening they are more like an assault than an opinion and are likely to cause a fight between the speaker and listener); defamation (a false expression about a person that could damage that person's reputation); and commercial speech (all forms of advertising and other communications intended primarily to promote economic or commercial transactions). The government may also set limitations on the time, place and manner of expression, thereby controlling when, where and how speech is allowed.

Freedom of Speech in Public Schools

Freedom of speech in the public school setting has been limited by the courts. The Supreme Court gives broad discretion to school officials to regulate speech that interferes with the educational mission.

But that discretion is not unlimited. In 1969, the Supreme Court stated that "[n]either students nor teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate" [*Tinker v. Des Moines Independent Community School District*].

The *Tinker* case arose out of an incident in which three public high school students were suspended for wearing black armbands in school to protest the Vietnam War. The Supreme Court held that the act of wearing an armband is a form of symbolic speech that is not disruptive of the educational

process and therefore is protected under the First Amendment. The key factors established in this case are whether the speech in question is silent, passive or creates disorder among the students. *Tinker* was the first Supreme Court ruling that specifically provided protection for students' First Amendment rights.

More recently, though, the Court has permitted significant restrictions on student speech rights. One case involved a school's decision to discipline a student who delivered what was considered a lewd campaign speech at a school assembly. The Court said the school was justified in suspending him for two days. It said the content of the speech was disruptive and contrary to the values the school sought to promote [*Bethel School District v. Fraser,* 1986].

The First Amendment also protects students from being forced to speak. In 1943, the Supreme Court supported a student whose beliefs as a Jehovah's Witness prevented her from reciting the Pledge of Allegiance [*West Virginia State Board of Education v. Barnette*]. Although the claim in that case was for religious freedom, the Court made clear that a compulsory flag salute violated the right of all citizens to free expression, quite apart from their religious convictions.

Freedom of the Press

One of the Supreme Court's most recent decisions dealing with student First Amendment rights severely limits their free press rights in the school setting. In the 1988 case of *Hazelwood School District v. Kuhlmeier*, the Court decided the principal of Hazelwood East High School near St. Louis did not violate the First Amendment rights of students by deleting two pages of a school-sponsored newspaper. The censored articles concerned teen pregnancy and divorce.

The Court decided that a school "need not tolerate student speech that is inconsistent with its basic educational mission." The Court, in fact, created a new category of unprotected student speech: Public schools may censor "curricular" speech so long as the school administrator's action is reasonably related to legitimate educational concerns. This means that the school can control student speech in student publications, theatrical productions, or any expressive activities that parents, students and members of the public reasonably perceive as a school activity.

To help determine if student activities are protected by the First Amendment, it is important to ask: (1) Was academic credit was awarded for the activity? (2) Did the school fund the activity? (3) Is this activity generally considered a school function? If the answer to any of these questions is yes, school officials may regulate the student speech.

Of course, students enjoy the full protection of the First Amendment for any publications they may produce and distribute outside the school setting.

Book Banning in Public Schools

The Supreme Court has held that students have a First Amendment right to receive ideas. This right, however, is interpreted in light of the special characteristics of the school environment. In *Board of Education v. Pico* (1982), the Court held that school officials may not remove books from a school library simply because they do not like the messages conveyed. School officials may remove books for any other reason, such as preventing student exposure to obscene or vulgar messages.

Freedom of Assembly and Petition

The freedom to associate with other people, the freedom to assemble in groups, and the freedom to petition the government to change its policies or actions are essential to our democracy. They are the heart of citizen activism.

The First Amendment protects "peaceful assembly," a provision generally applied to peaceful and orderly demonstrations. When it comes to demonstrations on school property, most court decisions have been unfavorable, particularly when the demonstration takes place during school hours or inside a school building. Under the reasoning in *Tinker*, it is more likely that such demonstrations will be found to "materially and substantially disrupt" school activities.

A court is more likely to protect a demonstration if the subject of the gathering concerns school policies. While a court may not be persuaded that a school is the proper place to protest against U.S. foreign policy, it might recognize that it is the only effective place for students to speak out against a school dress-code regulation, for example. In the words of the Supreme Court, "We would be ignoring reality if we did not recognize that the public schools in a community are important institutions and are often the focuses of significant grievances" [*Grayned v. City of Rockford*, 1972].

Other Resources

The Freedom Forum offers a variety of publications free of charge, while supplies last. To order by phone, call 800-830-3733. Also find The Freedom Forum home page on the Internet at URL code: http://www.nando.net/prof/freedom/1994/freedom.html. Other organizations that regularly address First Amendment issues include:

The American Center for Law and Justice
1000 Regent University Dr.
P.O. Box 64429
Virginia Beach, VA 23467
804/579-2489
FAX: 804/579-2835

American Civil Liberties Union
Public Education Department
132 West 43rd Street
New York, NY 10036
212/944-9800, ext. 422
FAX: 212/869-9065

American Library Association
Office for Intellectual Freedom
50 E. Huron Street
Chicago, IL 60611
312/280-4223
FAX: 312/280-3255

Americans United for Separation of Church and State
8120 Fenton Street
Silver Spring, MD 20910
301/589-3707
FAX: 301/495-9173

Christian Legal Society
4208 Evergreen Lane, Suite 222
Annandale, VA 22003
703/642-1070
FAX: 703/642-1075

First Amendment Congress
University of Colorado at Denver, Graduate School of Public Affairs
1445 Market Street, Suite 320
Denver, CO 80202
303/820-5688
FAX: 303/534-8774

The Freedom Forum First Amendment Center at Vanderbilt University
1207 18th Avenue South
Nashville, TN 37212
615/321-9588
FAX: 615/321-9599

People for the American Way
Communications Department
2000 M Street, NW
Washington, DC 20036
202/467-4999
FAX: 202/293-2672

Student Press Law Center
1101 Wilson Blvd.
Suite 1910
Arlington, VA 22209
703/807-1904
FAX: 703/807-2109

Other Activities

The ads can be used separately, or as a group, with many possibilities for the secondary education classroom. Here are a few additional ways these materials can work for you:

Use the News

Each day's news carries stories that relate to the First Amendment issues these ads address. Assign teams of students to scan the newspaper or TV broadcasts throughout the semester to find and share any stories or editorials covering First Amendment issues.

- Have students look for articles or advertisements in your local newspapers that might cause controversy if run in a school newspaper (a story about rape; an editorial critical of the school superintendent; an advertisement for an "X" or "R" rated film). Have students debate whether these stories or ads would interfere with the school's teaching mission. Have them discuss whether anything that might appear in a daily newspaper should be forbidden in a school newspaper.

- When stories, editorials or cartoons about First Amendment issues appear, have students respond with their own letters to the editor or news director, op-ed pieces, or cartoons. Talk about the ways differing viewpoints can be expressed.

- Compare the coverage by different media of a particular First Amendment story. Have students gauge whether the coverage is balanced or one-sided. Discuss with students the difference between editorials and news coverage.

- Reading the newspaper carefully for a week, can students identify opinions expressed in editorials, cartoons or quotations that they believe someone or some group might not want published or spoken? What are those opinions? Which group(s) might want to stop the writer or speaker if given the opportunity? Are there situations in which they should be allowed to do so?

Interdisciplinary Units

Students can launch a comprehensive study of any First Amendment issue using skills that cross the boundaries of English/journalism, social studies and math:

- Using current events to study First Amendment rights as they affect students (*social studies*).
- Creating and distributing a survey to monitor student/faculty opinion (*social studies/journalism*).
- Compiling the results of the survey, employing statistical analyses and organizing data into graphics for publication (*math*).
- Publishing survey results in the school newspaper as feature stories, opinion pieces and infographics (*English/journalism*).

Formal Debates

Teach formal debate procedures by establishing debate teams to tackle difficult and timely First Amendment questions. Freedom to debate is one of the central principles protected by the First Amendment. Debate is a great way for students to practice their communication skills—reading, writing, listening and speaking. You may want to consider reserving the auditorium and inviting parents and administrators so that students can battle it out before an audience.

Congress shall make no law
respecting an establishment of religion,
or prohibiting the free exercise thereof;
or abridging the freedom of speech,
or of the press,
or the right of the people
peaceably to assemble,
and to petition the Government
for a redress of grievances.

The First Amendment
to the United States Constitution